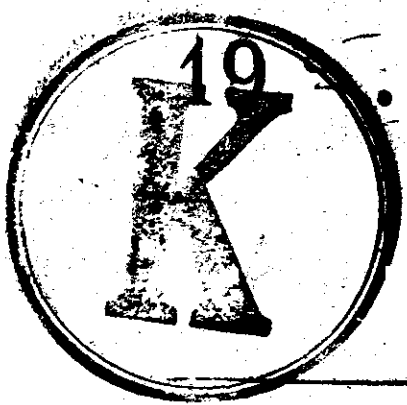




O. Prev. of

File No. Gambling
51

Legal Department

A

BRANCH

Subject:—

PSE

Opinions under the
Bombay Prevention Gambling

Act, 1887

O/ Prev. of Gambling / 51

File No.

Gen. 194 e.

283-A

C O N T E N T S.

Legal Department File No. O. Prog. of Gambling/1951.

<u>Sr. No-</u>	<u>R.I./O. No.</u>	<u>Subject.</u>	<u>Pages.</u>
ix		Opinions under the Bombay Prevention of Gambling Act, 1887.	
1.	O. No. 1906/1- ² 3-51.	Question whether the playing of "House" amounts to gaming within the meaning of the Act and whether the office bears of the Rly. Institute would also be liable to prosecution under the Act.	1-2
2-	O. No. 106-Conf/1.2.51.	Question whether in the case of clubs which only provide an card room and furnish it for the purpose of playing poker when no direct or even overall profit is made it is possible to establish an offence.	3-4
3.	O. No. 5277/2-4-57.	Sec. 5 Question whether the section provides for presumption proof of keeping or gaming in a common house and that provision meets the requirement of the situation.	5.6

EKN.22/6/

21/3/58
Nas
21/3/58

Office of the R.L.A.

Attention is invited to R.L.A.'s Opinion No.652-Conf1. dated the 30th November 1948.

It appears that there is evidence to show that a profit of Rs.2,570 was made by the Railway Institute at Ehusawal out of the game of "housie". On the assumption that "housie" is a game of chance, the office bearers of the Railway Institute within whose premises this game was being played can be convicted for keeping a common gaming house.

Sd/ P.M. Lad. 31/1

Remembrancer of Legal Affairs.

U.ⁿ. to H.D.No.1906 dated the 1st Feb.1952.

EKN.22/6/

Office of the R.L.A.

Attention is invited to R.L.A's opinion No.652-Confl. dated the 30th November 1948. It appears that no direct or even overall profit is made by the clubs which only provide a card roomⁿ and furnish it for the purpose of playing poker. The cards are sold to the members presumably at cost price and expenditure on the card room is recovered from the members subscriptions. It seems that this modus operandi is being followed with a view to get the benefit of the judgment recorded by Bavdekar J. and Dixit J. in Criminal Appeal No.156 of 1948. The choice, therefore lies between canvassing the point directly before the High Court or amending the law so as to bring it in line with the English lawⁿ there. The R.L.A. is in favour of the latter course which will once for all put an end to this problem.

Sd/ P.M., Lad. 31/1

Remembrancer of Legal Affairs.

U.R. to H.D.No.108-Confl dated the 1st February 1951.

EKN.:22/5/

R.I.No.3525 dt.20-2-51.

Submitted.

Please see P.S.H.C.M.'s note and H.D. note at p. 1-4 ante. H.D. is of the view that sec. 7 of the Bombay Prevention of Gambling Act, 1937 provides for presumptive proof of keeping or gaming in a common gaming house and that provision meets the requirement of the situation and no further action is necessary. The H.L.A. is requested to advise whether this view is correct and if not to examine the legislation on the subject in other States and to advise whether it is necessary to amend the Act.

2. Sec.7 of the Bombay Prevention of Gambling Act lays down that the finding of any instruments of gambling in any house, room or place entered under a warrant properly issued in due conformity with the terms of sec. 6 or about the person of any of those found in such house, room or place will be evidence of two things, namely, (1) that the said house, room or place is a common gaming-house and (2) that the persons found therein were present for the ^{or} purpose of gaming. This presumption will arise even though no play is seen by the Magistrate or police Officer or by any person acting under the authority of such Magistrate or Police Officer. Thus there is always a provision for presumptive proof of keeping a common gaming house and it is not necessary solely on the evidence of actual witness to the betting being accepted. In State v. Ratilal Haridas - Hariniwan Shah the High Court held that presumption under sec. 7 can only arise provided instruments of gaming have been seized in the house in respect of which the police

officer had reasonable grounds for suspecting that it is an instrument of gaming and the Court is satisfied with regard to the reasonableness of the grounds entertained by the Police Officer. This satisfaction of the Court on the reasonableness of the grounds entertained by the Police Officer is an essential requirements, otherwise the power is likely to be misused. It appears, therefore, that the provision made in sec. 7 is adequate and it is not necessary to amend the Act. The view taken by H.D. is correct and the papers may be seen and returned.

Sd/ P.S. Nadkarni. 28/5

D.S.(Cr.) I Agree Sd/ 24/5

Additional Sec. Sd/ 30/3

Seen and returned.

H.D.

2. The view taken by the Home Department is correct.

Sd/ B.D.H.

Additional Secretary to Government.

U.R. to H.D. No.5277, dated 2-4-51.

RLN.22/6/